

Assembly Bill No. 593

Passed the Assembly September 8, 2005

Chief Clerk of the Assembly

Passed the Senate September 8, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Chapter 11.7 (commencing with Section 66970) of Part 40 of the Education Code, to amend Sections 11011 and 54221 of, and to add and repeal Part 11.5 (commencing with Section 15870) of Division 3 of Title 2 of, the Government Code, relating to state property.

LEGISLATIVE COUNSEL'S DIGEST

AB 593, Frommer. State property: California Hope Endowment and California Hope Public Trust.

(1) Existing law requires each state agency to annually make a review of all proprietary state lands, with certain exceptions for, among other things, lands under the jurisdiction of specified state entities, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon to the Department of General Services. Existing law requires a state agency to transfer to the department jurisdiction of all land that is reported by the agency as excess and authorizes the department to sell or dispose of the property, and in recommending or determining the disposition of surplus lands, to give priority to proposals by the state that involve the exchange of surplus lands for lands listed in specified reports. Existing law requires the department to determine whether the land is needed by another state agency and authorizes the department to transfer the property to that agency on terms and conditions the department deems to be for the best interests of the state. The department is required to offer to local government agencies surplus land that is not needed by a state agency. Existing law requires the Department of General Services to maintain a complete and accurate statewide inventory of all real property held by the state.

Existing law authorizes the Director of General Services to lease, lease-purchase, or lease with the option to purchase any real property for use of any state agency if the director deems the lease to be in the best interests of the state.

The State Building Construction Act of 1955 authorizes the State Public Works Board, among other things, to construct public buildings, contract with other state agencies for the use of real property owned by the state upon which to construct a public

building, fix, alter, charge, and collect rents and other charges for the use of public buildings or for the services rendered by the board, and issue certificates or revenue bonds to obtain funds to pay the cost of public buildings. Existing law authorizes the State Public Works Board to select and acquire, in the name of and on behalf of the state, with consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

This bill would include proprietary state lands under the jurisdiction of certain other state entities within the exception for annual agency review and reporting of excess land, and would authorize the Department of General Services to give priority in recommending or determining the disposition of surplus lands, to proposals to further the purposes of the provisions governing the California Hope Public Trust.

The bill would establish the California Hope Public Trust in state government, to be governed and administered by a 9-member board consisting of appointees from the Governor, the Secretary of State and Consumer Services, the Treasurer, the Controller, the Speaker of the Assembly, and the Senate Committee on Rules. The bill would require the Department of General Services by March 31, 2006, to submit to the trust a complete and thorough inventory of all state-owned real estate and property and all lease agreements between any state agency, and private or nonpublic management groups. The bill would require the trust by January 1, 2007, and at least every 5 years thereafter, to review and recommend to the Legislature all real property owned by the State of California that should be transferred to the trust.

The bill would require the trust, among other things, to provide land and buildings it manages and controls for the accommodation of all state agencies, by lease or license or any other arrangement, for their use and occupation, and fulfill an obligation to the state to provide innovative stewardship of real property and infrastructure. The bill would authorize the trust to acquire and dispose of land and buildings, construct and maintain buildings, conduct studies or surveys with regard to future office space and building needs of the state, acquire or construct land and buildings that include premises suitable for commercial use and lease any portion of the property or premises to any public or

private entity, enter into joint ventures with other public or private entities for the construction or development of buildings and land for joint-use purposes, approve loans or other financing for projects undertaken by the trust, and contract with the Department of General Services for the management and maintenance of properties and buildings in the possession of the trust.

Commencing on or before July 1, 2008, and each year thereafter, the bill would require the trust to report to the Legislature on the activities undertaken by the trust and to include a financial statement showing the assets, liabilities, revenues, and expenditures of the trust, and a summary of net proceeds. The bill would require all net proceeds received or generated as a result of activities of the trust to be paid to the California Hope Endowment Fund, which the bill would create subject to appropriation by the Legislature, for allocation by the board of the endowment for specified public postsecondary purposes. It would require the Bureau of State Audits, on or before January 10, 2008, and each year thereafter, to report on the real estate transactions and real estate management of the trust.

The bill would also authorize the trust to issue revenue bonds or other forms of indebtedness or authorize a special purpose trust to issue these bonds for the purpose of financing projects consistent with these provisions, subject to specified conditions.

The bill would provide that these provisions would be repealed on January 1, 2009, unless legislation is enacted that becomes effective on or before that date, to transfer to the trust management and control of any or all of the state-owned real estate recommended by the trust for transfer.

(2) Existing law, known as the Donahoe Higher Education Act, sets forth, among other things, the missions and functions of California's public and independent segments of higher education, and their respective institutions of higher education. Provisions of the act apply to the University of California only to the extent that the Regents of the University of California, by appropriate resolution, act to make a provision applicable.

This bill would add to the Donahoe Higher Education Act provisions establishing the California Hope Endowment, with a mission of increasing the number of Californians who attend

colleges or universities and receive degrees. The bill would require that the endowment be governed by an 8-member board, consisting of 4 gubernatorial appointees, and one member each appointed by the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Community Colleges, and the Superintendent of Public Instruction.

The bill would require the endowment board to develop guidelines and criteria for the awarding of grants for promising and innovative approaches for the improvement of access to California's public colleges and universities. The bill would require funding from the endowment to supplement, and not replace, General Fund investment in public higher education. The bill would authorize the endowment to accept donations from corporations, individuals, or foundations, or to receive grants from private sources and public agencies, for any of the endowment's purposes.

The bill would require the California Postsecondary Education Commission to evaluate the effectiveness and success of the endowment, and to present its recommendations for any appropriate changes in the operations of the endowment, on or before January 1, 2011, and every 5 years thereafter.

The bill would provide that these provisions would only become operative upon the operative date of legislation transferring state-owned property to the California Hope Public Trust pursuant to specified provisions of the bill. It would provide that these provisions would be repealed as of January 1, 2009, if the provisions governing the trust are repealed as of that date.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the California Hope Endowment and Higher Education Land Grant for the 21st Century Act.

SEC. 2. The Legislature finds and declares all of the following:

(a) Historically, California's institutions of higher education have prepared significant numbers of educated, responsible people who contribute to California's schools, economy, culture,

and future. These institutions of education are often conduits for innovation in the fields of technology, science, engineering, and the arts.

(b) The prosperity of California's future economy and the well-being of its families depend not just on our natural resources and the quality of our environment, but on the skills and knowledge of California's people. Economists widely agree that the 21st century—even more than the 20th—will be the “human capital” century, and that expanding the number of Californians with higher education degrees is critical to continued economic growth and expanded opportunity.

(c) The future of California depends on an educated populace to form a solid and dependable economy. In fact, a person with a bachelor's degree can earn nearly one million dollars (\$1,000,000) more than a high school graduate over the course of his or her working life. State per capita income is systematically higher in states where a high percentage of the population has an undergraduate university degree.

(d) For every one dollar (\$1) the state invests in the California State University, the California State University returns four dollars and forty-one cents (\$4.41). Furthermore, technology licensing agreements with the University of California have resulted in the creation of more than 160 companies and spurred job growth in the biotech industry.

(e) The authors of the 1960 Master Plan for Higher Education believed that the traditional policy of tuition-free higher education is in the best interest of the state and should be continued. Students have seen commitment to this ideal erode significantly. Since December 2002, fees for the California State University system have risen by 75 percent. The final budget for the 2004–05 fiscal year raised student fees by 14 percent—seven hundred dollars (\$700) a year—for undergraduates attending the University of California, and community college fees rose by 44 percent—to seven hundred eighty dollars (\$780) for each full-time student. These fee increases came at a time when an estimated 100,000 students have dropped out of the system because of higher fees and unavailable classes. The final budget for the 2004–05 fiscal year also reduced enrollment at the California State University by 11,000 students.

(f) Today, for too many students, the dream of attending college seems out of reach. One in five California children live in poverty. One in four is an English language learner. Two out of every five children have parents who did not attend college. A declining percentage of high school graduates are enrolling in college by age 19 years, and California now ranks 25th among the states in the percentage of ninth graders who achieve college degrees by age 24 years.

(g) The Legislative Analyst's Office estimates that the annual deficit will grow to nearly ten billion dollars (\$10,000,000,000) in the 2006–07 fiscal year. Higher education remains particularly vulnerable to further reductions because it is one of the few major areas of the budget not protected by constitutional guarantees or federal law.

(h) To respond to the challenges of protecting California's investment in our young people, this act will establish the California Hope Endowment and the California Hope Public Trust. The endowment will be funded by a transfer of state-owned property, including offices, industrial property, warehouses, and nonenvironmentally sensitive urban land clearly suitable for development, to the California Hope Public Trust, which will manage the state's real estate like a business on behalf of the taxpayers and the endowment.

(i) The Department of General Services, in its admittedly incomplete inventory, estimates that the state owns about 6.6 million acres of land, and about 23,000 structures totaling around 204 million square feet. It owns 46 million square feet of offices, industrial spaces, warehouses, residences, and parking structures, not including facilities such as hospitals, laboratories, classrooms, prisons, and dormitories. It leases another 2,000 sites, including about 15.5 million square feet of offices. These holdings offer California opportunities to produce revenue, build higher quality, environmentally sustainable, smart growth projects, create jobs, and reduce government costs.

(j) This act will address the future security of California's economy, quality of life, and commitment to higher education. The California Hope Endowment will be charged with renewing the promise of the 1960 Master Plan for Higher Education by expanding the number of young Californians who can attend college and receive degrees.

SEC. 3. Chapter 11.7 (commencing with Section 66970) is added to Part 40 of the Education Code, to read:

CHAPTER 11.7. CALIFORNIA HOPE ENDOWMENT

66970. (a) The California Hope Endowment is hereby created in state government. The endowment shall be governed by a eight-member board. The members of the endowment board shall be appointed as follows:

- (1) The Governor shall appoint four members.
- (2) The Regents of the University of California shall appoint one member.
- (3) The Trustees of the California State University shall appoint one member.
- (4) The Board of Governors of the California Community Colleges shall appoint one member.
- (5) The Superintendent of Public Instruction shall appoint one member.

(b) The appointment of each person nominated to the endowment board by the Governor under paragraph (1) of subdivision (a) is subject to confirmation by a majority vote of the membership of the Senate.

(c) The term of office of each member of the endowment board appointed under this section shall be four years, except that upon establishment of the board, the initial term of the Governor's appointees shall be two years and thereafter shall be four years. The endowment board shall elect a president from its membership. Four members constitute a quorum of the endowment board.

(d) Each member of the endowment board shall serve without compensation, but shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of his or her duties.

(e) All meetings of the endowment board shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

66971. (a) The purpose of the endowment is to renew the promise of the 1960 Master Plan for Higher Education, by increasing the number of Californians who attend colleges or

universities and receive degrees. The endowment shall assess and promote the most promising and innovative approaches for the improvement of access to California's public colleges and universities.

(b) The endowment board shall develop guidelines and criteria for awarding grants that further the purposes of subdivision (a). It is the intent of the Legislature that the endowment board consider, but not necessarily be limited to, the following areas of investment in higher education:

(1) Strengthening academic enrichment and college preparation and outreach programs to ensure that secondary school pupils take the right courses and receive academic support services to prepare them for higher education.

(2) Increasing the availability of advanced placement classes and classes that meet the A-G requirements for university admission, and encouraging dual enrollment in community college, so that motivated students are not held back by limited course offerings at their high schools.

(3) Bolstering financial aid at public colleges and universities so that rising fees and the high cost of textbooks do not close the door on students due to financial need, whether they are recent high school graduates or adults returning to college in midcareer to improve their knowledge and skills.

(4) Improving counseling and coordination between community colleges and universities, so that more community college students take the right courses and are able to transfer to universities to receive undergraduate degrees.

(5) Offering improved counseling and academic support to make sure that more students who begin college obtain a degree.

66972. (a) Funds received by the endowment shall be deposited into the California Hope Endowment Fund, which is hereby established in the State Treasury subject to appropriation by the Legislature for allocation by the endowment board for purposes of Section 66971.

(b) Funding from the endowment shall supplement, and not replace, General Fund investment in public higher education. The endowment may accept donations from corporations, individuals, or foundations, or receive grants from private sources and public agencies, for any of the purposes identified in this chapter.

(c) On or before January 1, 2011, and every five years thereafter, the California Postsecondary Education Commission, or its successor agency, shall evaluate the effectiveness and success of the California Hope Endowment in achieving its objectives, and present its recommendations for any appropriate changes in the operations of the endowment to promote greater success in expanding opportunities for student access and success in California higher education.

66973. (a) This chapter shall only become operative upon the operative date of legislation transferring state-owned property to the California Hope Public Trust pursuant to Section 15878 of the Government Code.

(b) If Part 11.5 (commencing with Section 15870) of Division 3 of Title 2 of the Government Code is repealed on January 1, 2009, pursuant to Section 15878 of the Government Code, then this chapter is repealed as of that date.

SEC. 4. Section 11011 of the Government Code, as amended by Section 28 of Chapter 74 of the Statutes of 2005, is amended to read:

11011. (a) On or before December 31st of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, the State Coastal Conservancy, the Department of Parks and Recreation, the Department of Fish and Game, the Wildlife Conservation Board, and other state conservancies, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director thereof, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Sections 15879 and 66907.12 of this code and Section 31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state to further the purposes of Part 11.5 (commencing with Section 15870) or that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other provision of law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

- (1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, the net proceeds received from any real property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, established pursuant to subdivision (f) of Section 20 of Article XVI of the California Constitution, until the time that the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050)), approved by the voters at the March 2, 2004, statewide primary election, are retired. Thereafter, the net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.

For purposes of this section, net proceeds shall be defined as proceeds less any outstanding loans from the General Fund, or outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred prior to June 30, 2005, related to the management of the state's real property assets, including, but not limited to, surplus property identification, legal research, feasibility statistics, activities associated with land use, and due diligence.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the state's real property assets.

(i) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services for the purposes identified in Section 15863 upon appropriation by the Legislature.

(j) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands

pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(k) Subdivisions (a) to (f), inclusive, of this section shall be inoperative from August 16, 2004, until July 1, 2005, with the exception of subdivisions (g) to (j), inclusive, which shall take effect retroactively, beginning November 3, 2004.

SEC. 5. Part 11.5 (commencing with Section 15870) is added to Division 3 of Title 2 of the Government Code, to read:

PART 11.5. CALIFORNIA HOPE PUBLIC TRUST

CHAPTER 1. GENERAL PROVISIONS

15870. The California Hope Public Trust is hereby established in state government. The California Hope Trust shall manage properties transferred to it for the purposes of delivering government services to the people of California in an effective and customer service-oriented manner, and for increasing the value of its holdings and earning revenue for the California Hope Endowment in ways consistent with its duty to provide cost-effective real estate services to state agencies and to develop high-quality, environmentally responsible projects.

15870.5. For purposes of this part, the following words and terms shall have the following meanings unless the context clearly indicates or requires another or different meaning or intent:

(a) “Act” means the California Hope Endowment and Higher Education Land Grant for the 21st Century Act.

(b) “Board” means the Board of Directors of the California Hope Public Trust.

(c) “Bond purchase agreement” means a contractual agreement executed by or between the California Hope Public Trust and an obligor, or a special purpose trust authorized by the California Hope Public Trust, relating to the sale of bonds.

(d) “Bonds” means bonds, including structured, senior, and subordinated bonds or other securities; loans; notes, including bond, revenue, tax, or grant anticipation notes; commercial paper; floating rate and variable maturity securities; and any other evidences of indebtedness or ownership, including certificates of participation or beneficial interest, asset backed

certificates, or lease-purchase or installment purchase agreements, whether taxable or excludable from gross income for federal income taxation purposes.

(e) “Cost,” as applied to a project or portion thereof financed under this division, means all or any part of the cost of construction, renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, licenses, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved; the cost of all machinery, equipment, and financing charges; interest prior to, during, and for a period after completion of construction, renovation, or acquisition, as determined by the California Hope Public Trust; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; and the cost of architectural, engineering, financial and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incidental to determining the feasibility of any project or incidental to the construction, acquisition, or financing of any project.

(f) “Endowment” means the California Hope Endowment.

(g) “Executive director” means the executive director of the California Hope Public Trust appointed pursuant to Section 15873.

(h) “Financial assistance” in connection with a project, includes, but is not limited to, any combination of grants, loans, the proceeds of bonds issued by the California Hope Public Trust or special purpose trust, insurance, guarantees or other credit enhancements or liquidity facilities, and contributions of money, property, labor, or other things of value, as may be approved by resolution of the board; the purchase or retention of bank bonds, or the issuance of bank bonds or the bonds of a special purpose trust used to fund the cost of a project, bonds, the security for which is provided in whole or in part pursuant to the powers granted by this part; bonds for which the California Hope Public Trust has provided a guarantee or enhancement, including, but not limited to, the purchase of the subordinated bonds of a special purpose trust; or any other type of assistance deemed

appropriate by the California Hope Public Trust. For purposes of this subdivision, “grant” does not include grants made by the California Hope Public Trust except when acting as an agent or intermediary for the distribution or packaging of financing available from federal, private, or other public sources.

(i) “Obligor” means any subdivision of the state or local government including departments, agencies, commissions, cities, counties, special districts, assessment districts, and joint powers authorities within the state or any combination of these subdivisions that makes an application to the California Hope Public Trust for financial assistance in connection with a project in a manner prescribed by the trust. This definition shall not be construed to require that an applicant have an ownership interest in the project.

(j) “Participating party” means any person, company, corporation, association, partnership, firm, or other entity or group of entities, whether organized for profit or not for profit, engaged in operations within the state and that applies for financing from the California Hope Public Trust for the purpose of implementing a project.

(k) “Project” means the acquisition, sale, or transfer of real property and the construction, rehabilitation, removal, and renovation of any buildings or structures related thereto, for the purpose of maximizing the return on the state’s investment in the property.

(l) “Revenues” means all receipts, purchase payments, loan repayments, lease payments, and all other income or receipts derived by the California Hope Public Trust from the sale, lease, or other financing arrangement undertaken by the trust, its operations, including, all receipts from a bond purchase agreement, and any income or revenue derived from the investment of any money in any fund or account of the trust. Revenues shall not include moneys in the General Fund of the state.

(m) “Special purpose trust” means a trust, partnership, limited partnership, association, corporation, nonprofit corporation, or other entity authorized under the laws of the state to serve as an instrumentality of the state to accomplish public purposes and authorized by the California Hope Public Trust to acquire, by purchase or otherwise, for retention or sale, the bonds of the

California Hope Public Trust made or entered into pursuant to this division and to issue special purpose trust bonds or other obligations secured by these bonds or other sources of public or private revenues.

(n) “State” means the State of California.

(o) “Trust,” unless otherwise stated, means the California Hope Public Trust.

15871. (a) The trust shall be governed and administered by a nine-member board. The Governor shall appoint, subject to confirmation by a majority vote of the membership of the Senate, four members to the board who shall have expertise in real estate, finance, and urban planning. The Speaker of the Assembly and the Senate Committee on Rules shall each appoint one member. The Secretary for State and Consumer Services, the Treasurer, and the Controller shall serve as ex officio members of the board.

(b) Upon establishment of the board, the first term of office for two of the Governor’s appointees shall be two years, and for the other two of the Governor’s appointees, the first term of office shall be four years. After these initial terms, the term of office for members of the board appointed by the Governor shall be four years.

(c) The board shall elect a president from its membership. Four members shall constitute a quorum of the board.

(d) Each ex officio member of the board may designate a deputy, who is employed under the member’s authority, to act in his or her place and stead on the board. While serving on the board, the deputy may exercise the same powers that the ex officio member could exercise if he or she were personally present.

(e) Each member of the board shall serve without compensation but shall be reimbursed for traveling and other expenses actually and necessarily incurred in the performance of his or her duties.

(f) While serving on the board, a member shall be subject to Title 9 (commencing with Section 81000).

15872. (a) The board shall appoint and, notwithstanding Sections 19816, 19825, and 19826, shall fix the compensation of an executive director, a chief investment officer, and other investment officers and portfolio managers whose positions are designated managerial pursuant to Section 18801.1.

(b) When fixing the compensation for the positions specified in subdivision (a), the board shall be guided by the principles contained in Sections 19826 and 19829, consistent with the board's responsibilities to the state to recruit and retain highly qualified and effective employees for these positions.

(c) When a position specified in subdivision (a) is filled through a general civil service appointment, it shall be filled from an eligible list based on an examination held on an open basis, and tenure in the position shall be subject to Article 2 (commencing with Section 19590) of Chapter 7 of Part 2 of Division 5 of Title 2. In addition to the causes for action specified in that article, the board may take action under the article for causes related to its fiduciary responsibility to the state, including the employee's failure to meet specified performance objectives.

(d) The trust shall be subject to Section 19050.9 and any other requirements generally applicable to state agencies concerning officers and employees.

15873. (a) The executive director of the trust shall be exempt from civil service and shall be appointed by, and serve at the pleasure of, the board.

(b) The executive director shall administer the affairs of the trust, employ staff, be responsible to the trust for program performance, and shall be considered the head of the department within the meaning of Chapter 2 (commencing with Section 11150) of Part 1.

15874. The board shall determine, by majority vote, where to maintain its office and shall hold meetings at that office or elsewhere upon call of the president or four members of the board. The board shall not relocate its office more than once upon establishment of the board's first location.

15875. All meetings of the board shall be subject to the requirements of the Bagley-Keene Open Meeting Act, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2.

15876. On or before March 31, 2006, the Department of General Services shall submit to the trust a complete and thorough inventory of all state-owned real estate and property. The Department of General Services shall also submit to the trust on or before March 31, 2006, an inventory of all lease

agreements between any state agency and private or nonpublic management groups.

15877. (a) On or before January 1, 2007, the trust shall review and recommend to the Legislature all real property owned by the state whose management and control should be transferred to the trust.

(b) Notwithstanding subdivision (a), the trust shall not consider for transfer any of the following real property owned by the state:

(1) Lands in the possession of the Department of Transportation that are used for existing highways or airspace, and properties acquired for highway projects.

(2) Lands that are part of the State Park System.

(3) Lands under the jurisdiction of the State Lands Commission.

(4) Lands in the possession of the Department of Corrections and the California Youth Authority that are used explicitly for the incarceration of inmates.

(5) The State Capitol.

(6) Any land, building, or property determined to be of historical or cultural significance.

(7) Any property subject to Section 1 of Article XIX of the California Constitution.

(8) Lands under the jurisdiction of the University of California.

(9) Lands under the jurisdiction of the California State University.

15877.5. On or before January 1, 2007, and no less than every five years thereafter, the trust shall review and recommend to the Legislature all real property owned or leased by the state whose management and control should be transferred to the trust. The trust shall consider, at a minimum, all offices, industrial property, warehouses, and nonenvironmentally sensitive urban land clearly suitable for development, including the properties controlled, managed, or leased by the Department of General Services. The trust shall prepare a plan for assuming responsibility for providing real estate services to the state agencies and departments located in those properties and enter into customer service agreements to provide for their space needs. The plan shall include an estimate, on a fiscal year basis, of the net

proceeds, as defined in subdivision (b) of Section 15882, that the trust expects to transfer to the endowment.

15878. This part is repealed on January 1, 2009, unless legislation is enacted that becomes effective on or before January 1, 2009, to transfer to the trust pursuant to Section 15877, management and control of any or all of the state-owned real estate that the trust recommends for transfer. At the time of the transfer, the trust shall assume from the Department of General Services responsibility for providing real estate services to the state agencies and departments located in those properties, including planning of future projects.

15879. Notwithstanding Section 7550.5, on an annual basis, the executive director of the trust shall report to the Director of General Services regarding land or property classified as excess pursuant to Section 11011 and identify that land or property that would assist the trust to effectuate its purposes.

15880. (a) The trust shall do all of the following:

(1) Generate a return on real estate holdings in the possession of the trust.

(2) Provide land and buildings it manages and controls for the accommodation of all state agencies, by lease or license or any other arrangement, for their use and occupation.

(3) Fulfill an obligation to the state to provide innovative stewardship of real property and infrastructure.

(4) Use private sector management and accounting methods to provide for the efficient and effective utilization of state assets.

(5) Ensure that all projects undertaken by the trust satisfy state, regional, and local land-use and environmental requirements that apply to private sector projects.

(6) Ensure that projects undertaken by the trust meet the smart growth principles of Executive Order D-46-01 of 2001.

(b) In addition to the objectives outlined in subdivision (a), the trust may do all of the following:

(1) Acquire and dispose of land and buildings, subject to subdivision (c).

(2) Construct and maintain buildings, subject to subdivision (c).

(3) Conduct studies or surveys with regard to future office space and building needs of the state.

(4) Acquire or construct land and buildings that include premises suitable for commercial use and lease any portion of the property or premises to any public or private entity.

(5) Enter into joint ventures with other public or private entities for the construction or development of buildings and land for joint-use purposes.

(6) Acquire by purchase, rental or otherwise, equipment, fixtures, and other property, real or personal, required for the land and buildings.

(7) Accept land donations from private and nonpublic sources.

(8) Approve loans or other financing for projects undertaken by the trust.

(9) Contract with the Department of General Services for the management and maintenance of properties and buildings in the possession of the trust.

(10) Issue revenue bonds, as provided in this part, to obtain funds to pay the cost of projects, secure the payment of revenue bonds and interest thereon by pledging all or part of its revenues, rentals, and receipts, and provide for the security of the revenue bonds and the rights of the holders thereof.

(11) Sell property owned by the trust and lease the property back so as to generate proceeds of sale to be used for purposes of the California Hope Public Trust.

(c) The trust shall notify the chair of the fiscal committee of each house prior to approving the acquisition or disposition of land and buildings pursuant to paragraph (1) of subdivision (b) or the construction of buildings pursuant to paragraph (2) of subdivision (b).

15881. Notwithstanding Section 7550.5, on or before July 1, 2008, and each year thereafter, the trust shall report to the Legislature on the activities undertaken by the trust. The report shall include, but not be limited to all of the following:

(a) A financial statement showing the assets and liabilities of the trust at the end of the previous fiscal year.

(b) A summary of the operations of the trust for the previous fiscal year.

(c) A summary of the revenues and expenditures of the trust for the previous fiscal year.

(d) A summary of net proceeds, as defined in subdivision (b) of Section 15882. The summary shall identify which proceeds

may be allocated to the endowment and which proceeds may not be allocated to the endowment. For those proceeds that may not be allocated to the endowment, the summary shall identify the proceeds by any applicable special fund origin.

15882. (a) Except as otherwise specified by law, all net proceeds received or generated as a result of actions taken pursuant to this part shall be paid to the California Hope Endowment Fund established pursuant to Section 66972 of the Education Code.

(b) For purposes of this section, “net proceeds” means gross proceeds less all costs directly related to the administration of the trust and management of state property.

(c) The trust shall account for proceeds received or generated that are derived from real estate procured with special fund revenue.

15882.3. On or before January 10, 2008, and each year thereafter, the Bureau of State Audits shall report on the real estate transactions and real estate management of the trust. In particular, the bureau shall evaluate the trust performance of the duties set forth in Section 15880.

CHAPTER 2. BOND PROVISIONS

15882.5. (a) The California Hope Public Trust may, from time to time, issue its revenue bonds in a principal amount that the trust shall determine to be necessary to provide sufficient funds for its purposes, which may include, but shall not be limited to, providing funds for the payment of costs of a project, for the purchase of bonds of a special purpose trust, payment of interest on bonds of the California Hope Public Trust or of a special purpose trust, establishment of reserves to secure bonds, refunding previously issued bonds or refunding bonds of the California Hope Public Trust or special purpose trust, and payment of other expenditures of the California Hope Public Trust or special purpose trust incident to issuance of bonds or refunding bonds of the California Hope Public Trust.

(b) The California Hope Public Trust, by private sale pursuant to a bond purchase agreement, may purchase the bonds of any special purpose trust that are issued pursuant to any other

provision of applicable law, and may be secured with any funds, moneys, or revenues that are legally available.

(c) The California Hope Public Trust may also issue bonds or authorize a special purpose trust to issue bonds for the purpose of making loans to or entering leases with an obligor or participating party to pay for the cost of a project. The loan or lease may be secured with any funds, moneys, or revenues that are legally available, including, but not limited to, any funds or moneys that are due or payable to the obligor by reason of any grant, allocation, or appropriation of the state or agencies thereof, to the extent that the Controller shall be the custodian at any time of these funds or moneys, and any funds or moneys that are or will be due or payable to any obligor or participating party, the California Hope Public Trust or the state or the agencies thereof by reason of any grant, allocation, apportionment, or appropriation of the federal government or agencies thereof.

15883. The board may, from time to time, issue its negotiable notes, including commercial paper notes or other forms of negotiable short-term indebtedness, or may, in anticipation of the sale of bonds, issue its negotiable bond anticipation notes and may renew the notes from time to time. The board may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. Any notes may be authorized, sold, executed, and delivered in the same manner as bonds. Any resolution authorizing notes of the board or any issue thereof may contain any provisions that the board is authorized to include in any resolution authorizing bonds of the board, and the board may include in any notes any terms, covenants, or conditions that it is authorized to include in any bonds. All of these notes shall be paid from any revenues of the board or other moneys available therefore and not otherwise pledged, or from the proceeds of the sale of the bonds of the board in anticipation of which they were issued, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

15884. (a) The California Hope Public Trust may give final approval for the issuance of the bonds or of the authorization of a special purpose trust upon terms it deems necessary or desirable.

(b) The executive director may establish the terms and conditions for the issuance of the bonds or of the authorization of

a special purpose trust and take any other action necessary or desirable for the issuance of the bonds or of a special purpose trust authorized by the California Hope Public Trust.

(c) Any action under this section shall be at the discretion of the California Hope Public Trust.

15885. (a) Bonds may be authorized to finance a single project for a single obligor or a participating party, a series of projects for a single obligor or a participating party, a single project for several obligors or participating parties, or several projects for several obligors or participating parties.

(b) Except as otherwise expressly provided by the California Hope Public Trust, every issue of its bonds shall be payable from any revenues or other moneys of the trust available therefor and not otherwise pledged. These revenues or moneys may include the proceeds of additional bonds, subject only to any agreements with the holders of particular bonds pledging any particular revenues or moneys. Notwithstanding that the bonds may be payable from a special fund, these bonds shall be deemed to be negotiable instruments for all purposes.

(c) Bonds may be issued in one or more series and may be issued as serial bonds, term bonds, or as a combination thereof. The bonds shall be authorized by resolution of the board and shall, as provided by the resolution, bear the date of issuance, the time of maturity, which shall not exceed 50 years from the date of issuance, bear the rate of interest, be payable at the time provided, be in the denominations provided, be in the form provided, carry the registration privileges provided, be executed in the manner provided, be payable in lawful money of the United States, or other designated currency, at the place provided, and be subject to any terms of redemption or tender provided in the resolution.

(d) Sale of the bonds of the California Hope Public Trust or of a special purpose trust shall be coordinated by the Treasurer in accordance with Section 5702. The Treasurer shall sell the bonds within 90 days of receiving a certified copy of the resolution authorizing the sale of bonds, unless the board adopts a resolution extending the 90-day period.

(e) The sale of bonds may be a public or private sale, and for any price, and on any terms and conditions, as the California Hope Public Trust determines proper, after giving due

consideration to the recommendations of any special purpose trust and any obligor to be assisted from the proceeds of the bonds. Pending preparation of definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds that shall be exchanged for definitive bonds.

15886. Any resolution authorizing any bonds or the authorization of a special purpose trust or any issue of bonds of the California Hope Public Trust or a special purpose trust may contain the following provisions, either directly or through a trust agreement as provided in Section 15889, which shall be a part of the contract with the holders of the bonds to be authorized:

(a) Provisions pledging the full faith and credit of the California Hope Public Trust, or pledging all or any part of the revenues of any project, or any revenue-producing contract or contracts made by the trust with any obligor or participating party, including rentals or any other moneys of the trust, to secure the payment of the bonds or of any particular issue of bonds, subject to those agreements with bondholders as may then exist and consistent with Sections 1 and 18 of Article XVI of the California Constitution.

(b) Provisions setting out the rentals, fees, purchase payments, loan repayments, and other charges, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(c) Provisions setting aside reserves or sinking funds, or providing for the use of subordinated classes of bonds by the California Hope Public Trust or a special purpose trust, and the regulation and disposition thereof.

(d) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(e) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds and the holders thereof that are required to give consent thereto, and the manner in which the consent may be given.

(f) Definitions of acts or omissions to act that constitute a default in the duties of the California Hope Public Trust to holders of its obligations, and providing the rights and remedies of a trustee or of the holders in the event of a default.

(g) Limitations on the California Hope Public Trust's expenditures for operation and administration, or other expenses.

(h) Provisions for credit enhancements, including bond insurance or bank credit or liquidity agreements, or swaps or hedging arrangements, and the repayment thereof.

15887. Neither the members of the board or the officers of the California Hope Public Trust nor any person executing the bonds of the California Hope Public Trust or a special purpose trust shall be personally liable for the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

15888. The California Hope Public Trust, a special purpose trust, or a participating party may, out of any funds available therefor, purchase their respective bonds. The California Hope Public Trust and a special purpose trust may hold, pledge, cancel, or resell their bonds, subject to and in accordance with agreements with bondholders.

15889. In the discretion of the California Hope Public Trust or a special purpose trust, as the case may be, any bonds issued under this chapter may be secured by a trust agreement between the California Hope Public Trust, a special purpose trust, and a corporate trustee, that may include the Treasurer or any trust company or trust having the powers of a trust company within or without the state. The trust agreement may contain provisions deemed necessary or appropriate by the board, including those set forth in Section 15886, and additionally it may (a) pledge or assign any funds or assets of the California Hope Public Trust or special purpose trust legally available for pledge or assignment, all or a portion of the revenues to be received by the California Hope Public Trust, directly or indirectly, with respect to the project, or the proceeds of any contract or contracts, loan or loan agreements, lease agreements, bond or bond purchase agreements, or any portion thereof, to be financed out of the proceeds of the bonds, and (b) contain provisions for protecting and enforcing the rights and remedies of bondholders as may be reasonable and proper and not in violation of law, including provisions specifically authorized to be included in any resolution of the California Hope Public Trust authorizing bonds.

15890. (a) Bonds issued under this chapter do not constitute a debt or liability of the state or of any political subdivision thereof, other than the California Hope Public Trust or a special purpose trust, and do not constitute a pledge of the full faith and

credit of the state or any of its political subdivisions, other than the California Hope Public Trust or special purpose trust, but are payable solely from the funds provided therefor under this chapter and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. This subdivision shall in no way preclude bond guarantees or enhancements pursuant to this part. All the bonds shall contain on the face thereof a statement to the following effect:

“Neither the full faith and credit nor the taxing power of the State of California or any political subdivision is pledged to the payment of the principal of, or interest on, this bond.”

(b) The issuance of bonds under this chapter shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

15891. The validity of any bonds issued under this chapter shall not be affected by any proceedings related to the authorization or implementation of the project financed by the bonds.

15892. (a) The California Hope Public Trust or a special purpose trust may issue bonds for the purpose of refunding any bonds, notes, or other securities of the California Hope Public Trust or a special purpose trust then outstanding, including the payment of any redemption premium thereon and any interest accrued, or to accrue, on their earliest or any subsequent date of redemption, purchase, or maturity of these bonds. The California Hope Public Trust, if it deems advisable, may issue bonds for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of any project or any portion thereof.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds as provided in subdivision (a) may, in the discretion of the California Hope Public Trust, be applied to the purchase or retirement at maturity or redemption of those outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending this application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of those outstanding bonds on the date or dates as may be determined by the California Hope Public Trust.

(c) Pending this use, the escrowed proceeds may be invested and reinvested by the Treasurer or a trustee in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing at the time or times appropriate to assure prompt payment, of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any, earned or realized on the investments thereof, shall be returned to the agency for use in carrying out the purposes of this division.

(d) The portion of the proceeds of the bonds issued for the additional purpose of paying all or any part of the cost of acquisition, construction, additions, improvements, extensions, or enlargements, or any combination thereof, of any project may be invested and reinvested by the Treasurer or a trustee in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, maturing not later than the time or times when these proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income, and profits, if any, earned or realized on this investment may be applied to the payment of all, or any part of, the cost or may be used by the California Hope Public Trust in carrying out the purposes of this division.

15893. Any and all bonds issued by the California Hope Public Trust or a special purpose trust, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

15894. Whenever the California Hope Public Trust deems that it will increase the salability or the price of the bonds to obtain, prior to or after sale, a legal opinion from private counsel as to the validity or tax-exempt nature of the bonds, the California Hope Public Trust may obtain a legal opinion. Payment for legal services may be made out of the proceeds of the sale of the bonds.

15895. The California Hope Public Trust may employ financial consultants, advisers, and accountants, as may be necessary in its judgment, in connection with the issuance and sale of any bonds of the California Hope Public Trust. Payment for these services may be made out of the proceeds of the sale of the bonds.

15896. Section 10295 and Sections 10335 to 10382, inclusive, of the Public Contract Code shall not apply to agreements entered into by the California Hope Public Trust in connection with the sale of bonds or notes authorized under this division.

15897. Notwithstanding any other provision of law, bonds issued by the California Hope Public Trust or a special purpose trust are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, executors, administrators, trustees, and other fiduciaries, for state school funds, pension funds, and for any funds that may be invested in county, school, or municipal bonds. These bonds are securities that may legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be, authorized by law, including, deposits to secure public funds.

15898. This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized in its provisions, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter shall comply with any other law applicable to the issuance of bonds including, but not limited to, Division 13 (commencing with Section 21000) of the Public Resources Code. Except as otherwise provided in this chapter, the financing of a project pursuant to this article shall not exempt a project from any requirement of law which otherwise would be applicable to the project.

15899. To the extent that this part, with respect to the financing of projects, is inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this part shall be deemed controlling.

SEC. 6. Section 54221 of the Government Code is amended to read:

54221. (a) As used in this article, the term “local agency” means every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.

(b) As used in this article, the term “surplus land” means land owned by any agency of the state, or any local agency, that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange.

(c) As used in this article, the term “open-space purposes” means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) As used in this article, the term “persons and families of low or moderate income” means the same as provided under Section 50093 of the Health and Safety Code.

(e) As used in this article, the term “exempt surplus land” means either of the following:

(1) Surplus land which is transferred pursuant to Section 25539.4.

(2) Surplus land which is (A) less than 5,000 square feet in area, (B) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (C) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency which is used for park, recreational, open-space, or low- and moderate-income housing purposes and is not located within an enterprise zone pursuant to Section 7073 nor a designated program area as defined in Section 7082. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to the provisions of this article.

(f) Notwithstanding subdivision (e), the following properties are not considered exempt surplus land and are subject to the provisions of this article:

(1) Lands within the coastal zone.

(2) Lands within 1,000 yards of a historical unit of the State Parks System.

(3) Lands within 1,000 yards of any property that has been listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(4) Lands within the Lake Tahoe region as defined in Section 66905.5.

(5) Lands transferred to the California Hope Public Trust pursuant to Section 15878.

Approved _____, 2005

Governor